



SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 345 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 education and to make an appropriation.
- 4 Page 2, between lines 4 and 5, begin a new paragraph and insert:
- 5 "SECTION 2. IC 21-14-2-13 IS ADDED TO THE INDIANA CODE
- 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2015]: **Sec. 13. (a) Before October 1, 2016, and before October 1,**
- 8 **2017, a state educational institution may submit to the commission**
- 9 **for higher education a request for reimbursement of the amount of**
- 10 **any tuition revenue loss by the state educational institution in the**
- 11 **immediately preceding state fiscal year as a result of the new**
- 12 **eligibility requirements for the payment of the resident tuition rate**
- 13 **under IC 21-14-11.5-1 (before its expiration on June 30, 2017).**
- 14 **(b) If a state educational institution submits a request to the**
- 15 **commission for higher education under this section, the request**
- 16 **must include the total amount of the difference between:**
- 17 **(1) the total amount of tuition paid by students who were:**
- 18 **(A) enrolled in the state educational institution in the**
- 19 **immediately preceding state fiscal year; and**
- 20 **(B) eligible under IC 21-14-11.5-1 (before its expiration on**
- 21 **June 30, 2017) to pay the resident tuition rate of the state**
- 22 **educational institution; and**
- 23 **(2) the total amount of tuition that the students described in**
- 24 **subdivision (1) would have paid in the immediately preceding**
- 25 **state fiscal year if the students had not been eligible to pay the**
- 26 **resident tuition rate under IC 21-14-11.5-1 (before its**
- 27 **expiration on June 30, 2017).**
- 28 **(c) This section expires January 1, 2018."**

Page 2, line 35, delete "chapter" and insert "section".

Page 2, after line 35, begin a new paragraph and insert:

"Sec. 2. (a) The resident tuition account is established within the state general fund for the purpose of reimbursing state educational institutions for tuition revenue losses. The account shall be administered by the commission for higher education.

(b) The account consists of fees collected under IC 22-5-1.5-20.

(c) The commission for higher education shall use the money in the account to reimburse state educational institutions that submit requests under IC 21-14-2-13 for any tuition revenue losses by the state educational institutions in the immediately preceding state fiscal year as a result of the new eligibility requirements for the payment of the resident tuition rate under section 1 of this chapter (before its expiration on June 30, 2017). The commission for higher education shall, before December 31, 2016, and before December 31, 2017, distribute money to each state educational institution that:

(1) submits a request under IC 21-14-2-13; and

(2) is eligible for reimbursement;

in an amount proportional to the loss of tuition revenue by each state educational institution in the immediately preceding state fiscal year.

(d) Money is continually appropriated from the account to the commission for higher education to carry out the purposes of this section.

(e) The expenses of administering the account shall be paid from money in the account.

(f) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money is invested.

(g) Except as provided in subsection (h), money in the account at the end of the state fiscal year does not revert to the state general fund and may be used only to carry out the purposes of this section.

(h) On December 31, 2017, any money remaining in the account reverts to the state general fund.

(i) This section expires January 1, 2018.

SECTION 4. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 1.5. Employment of Unauthorized Aliens

Sec. 1. (a) This chapter applies only to an employee that an employer hires after June 30, 2015.

(b) This chapter does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)) that is subject to regulation by the Indiana utility regulatory commission

under IC 8-1-2.

(2) A hospital licensed under IC 16-21.

(3) A county hospital organized under IC 16-22.

(4) A municipal hospital organized under IC 16-23.

(5) A nonprofit corporation.

(6) A person who operates a business of transporting emergency patients by ambulance or using a nontransporting emergency medical services vehicle (as defined in IC 16-31-3-0.5).

(7) A corporation organized under IC 8-1-13.

(8) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 2. As used in this chapter, "agency" means any state or local administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of government created or established by law that issues a license for purposes of operating a business in Indiana.

Sec. 3. As used in this chapter, "employee" means an individual who:

(1) works or is hired to work for at least one thousand five hundred (1,500) hours during a twelve (12) month period;

(2) performs services for an employer; and

(3) is an individual from whom the employer is required to withhold wages under IC 6-3-4-8.

Sec. 4. (a) As used in this chapter, "employer" means a person that:

(1) transacts business in Indiana;

(2) has a license issued by an agency; and

(3) employs one (1) or more individuals who perform employment services in Indiana.

(b) The term includes the state, a political subdivision (as defined in IC 3-5-2-38) of the state, and a self-employed person.

Sec. 5. As used in this chapter, "E-Verify" means the employment verification pilot program jointly administered by the United States Department of Homeland Security and the Social Security Administration or its successor program.

Sec. 6. As used in this chapter, "knowingly" has the meaning set forth in IC 35-41-2-2.

Sec. 7. (a) As used in this chapter, "license" means any agency permit, certificate, approval, registration, charter, or similar authorization that is:

(1) required by law; and

(2) issued by an agency;

for purposes of operating a business in Indiana.

(b) The term does not include an occupational or professional

license.

Sec. 8. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or another legal entity.

Sec. 9. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h)(3).

Sec. 10. An employer shall not knowingly employ an unauthorized alien.

Sec. 11. (a) Subject to the availability of funds, the attorney general may investigate a complaint filed with the attorney general that an employer knowingly employed an unauthorized alien in violation of section 10 of this chapter.

(b) In investigating a complaint under subsection (a), the attorney general shall verify the work authorization of the alleged unauthorized alien with the federal government under 8 U.S.C. 1373(c).

(c) A complaint filed with the attorney general under subsection (a) must be:

(1) in writing; and

(2) signed by the individual filing the complaint.

Sec. 12. A state, county, or local official or employee may not attempt to make independently a final determination as to whether an individual is authorized to work in the United States.

Sec. 13. (a) If, after an investigation, the attorney general determines that an employer has knowingly employed an unauthorized alien, the attorney general shall notify the United States Immigration and Customs Enforcement.

(b) If the attorney general determines that an employer has knowingly employed an unauthorized alien and that any defenses to knowingly employing an unauthorized alien established under this chapter do not apply, the attorney general may notify:

(1) local law enforcement agencies; and

(2) the prosecuting attorney in the county in which the unauthorized alien is employed.

The attorney general may not notify law enforcement agencies and the prosecuting attorney about the unauthorized alien unless the attorney general determines that the defenses established under this chapter do not apply.

Sec. 14. (a) The prosecuting attorney may bring a civil action for a violation of section 10 of this chapter against an employer in the county where the unauthorized alien employee is employed.

(b) A prosecuting attorney filing an action under subsection (a) may file only one (1) action against the employer relating to the employment of all unauthorized aliens employed by the employer at the time the prosecuting attorney files the action.

(c) A prosecuting attorney may file an additional action against an employer under this section for a second or subsequent violation

of section 10 of this chapter only for violations allegedly committed by the employer after the employer receives notice that the prosecuting attorney has filed the initial action against the employer under this section.

Sec. 15. If a prosecuting attorney files an action under section 14 of this chapter, the court in which the action is filed may hold a hearing and make a determination of the action on an expedited basis.

Sec. 16. (a) Except as provided in sections 18 and 19 of this chapter, if a trier of fact determines that an employer knowingly employed an unauthorized alien in violation of section 10 of this chapter, the following apply:

(1) The court may do the following:

(A) Order the employer to terminate the employment of all unauthorized aliens employed by the employer.

(B) Place the employer on probation for a three (3) year period. During the probationary period, the employer shall file a quarterly report with the attorney general concerning each new individual the employer hires at the specific business location where the unauthorized alien worked.

(C) Order the employer to file a sworn affidavit signed by the employer with the prosecuting attorney within three (3) business days after the order is issued under clause (A).

The affidavit must include a statement that the employer:

(i) has terminated the employment of all unauthorized aliens; and

(ii) will not knowingly employ an unauthorized alien.

(2) The court, after considering the relevant factors listed in subsection (b), may order an agency to suspend, for not more than ten (10) business days, a license described in section 17(a) of this chapter that is held by the employer.

(b) The court may consider the following factors, if applicable, in deciding whether to order an agency to suspend an employer's license under subsection (a)(2):

(1) The number of unauthorized aliens employed by the employer.

(2) Any prior misconduct by the employer.

(3) The degree of harm resulting from the violation.

(4) The extent to which the employer made good faith efforts to comply with any applicable requirements under this chapter.

(5) The duration of the violation.

(6) The role of the directors, officers, or agents of the employer in the violation.

(7) Any other factors the court considers relevant.

Sec. 17. (a) This section applies to all licenses held by an

1 employer:

2 (1) that are necessary to operate the employer's business at
3 the employer's business location where an unauthorized alien
4 worked; or

5 (2) if a license is not necessary at the employer's business
6 location described in subdivision (1), that are held by the
7 employer for the employer's primary place of business.

8 (b) If an employer fails to file a sworn affidavit required under
9 section 16(a)(1)(C) of this chapter with the prosecuting attorney
10 within three (3) business days after the order requiring the filing
11 of the affidavit is issued, the court may order the appropriate
12 agencies to suspend all licenses that are held by the employer. All
13 licenses suspended under this subsection may remain suspended
14 until the employer files a sworn affidavit described under section
15 16(a)(1)(C) of this chapter with the prosecuting attorney.

16 (c) Subject to section 20 of this chapter, if the employer subject
17 to an order filed under subsection (b) files a sworn affidavit
18 required under section 16(a)(1)(C) of this chapter, the court may
19 order the appropriate agencies to reinstate the employer's
20 suspended licenses.

21 Sec. 18. If:

22 (1) a trier of fact determines that an employer knowingly
23 employed an unauthorized alien in a second violation of
24 section 10 of this chapter; and

25 (2) the violation referred to in subdivision (1) occurred not
26 later than ten (10) years after the date of the initial violation;
27 the court may order the appropriate agencies to suspend, for not
28 more than ten (10) business days, all licenses described in section
29 17(a) of this chapter that are held by the employer.

30 Sec. 19. If:

31 (1) a trier of fact determines that an employer knowingly
32 employed an unauthorized alien in a third violation of section
33 10 of this chapter; and

34 (2) the violation referred to in subdivision (1) occurred not
35 later than ten (10) years after the date of the initial violation;
36 the court may order the appropriate agencies to permanently
37 revoke all licenses held by the employer that are described in
38 section 17(a) of this chapter.

39 Sec. 20. (a) If an agency receives an order from a court under
40 section 16(a)(2), 17(b), or 18 of this chapter, the agency shall
41 immediately suspend the license or licenses described in section
42 17(a) of this chapter that are held by the employer to which the
43 order relates.

44 (b) In addition to any other applicable reinstatement fee for a
45 license described in section 17(a) of this chapter, an agency may
46 not reinstate a license of an employer that has been suspended by
47 the agency under subsection (a) unless the employer pays a

1 reinstatement fee of ten thousand dollars (\$10,000) to have the
 2 license reinstated. If more than one (1) license held by the employer
 3 has been suspended, the reinstatement fee for each license is ten
 4 thousand dollars (\$10,000).

5 (c) An agency that collects a reinstatement fee under subsection
 6 (b) shall deposit the reinstatement fee as follows:

7 (1) Before January 1, 2018, the agency shall deposit the fee
 8 into the resident tuition account established under
 9 IC 21-14-11.5-2.

10 (2) After December 31, 2017, the agency shall deposit the fee
 11 into the state general fund.

12 (d) If an agency receives an order from a court under section 19
 13 of this chapter, the agency shall immediately revoke the license or
 14 licenses described in section 17(a) of this chapter that are held by
 15 the employer to which the order relates.

16 Sec. 21. A court shall send copies of all orders issued under
 17 sections 16, 17, 18, and 19 of this chapter to the attorney general.

18 Sec. 22. (a) In determining whether an individual is an
 19 unauthorized alien for purposes of this chapter, a trier of fact may
 20 consider only the federal government's verification or status
 21 information provided under 8 U.S.C. 1373(c).

22 (b) The federal government's verification or status information
 23 provided under 8 U.S.C. 1373(c) creates a rebuttable presumption
 24 of an individual's lawful status.

25 (c) The court may:

26 (1) take judicial notice of the federal government's
 27 verification or status information; and

28 (2) request the federal government to provide automated or
 29 testimonial verification under 8 U.S.C. 1373(c).

30 Sec. 23. A prosecuting attorney may not file an action against an
 31 employer under section 13 of this chapter for knowingly employing
 32 an unauthorized alien if the employer verified the employment
 33 authorization of the employed individual through E-Verify.

34 Sec. 24. An employer may establish as an affirmative defense
 35 against an alleged violation under section 10 of this chapter that
 36 the employer complied in good faith with the requirements of 8
 37 U.S.C. 1324a(b).

38 Sec. 25. The attorney general shall:

39 (1) maintain copies of court orders received under section 21
 40 of this chapter;

41 (2) make the court orders available on the attorney general's
 42 Internet web site; and

43 (3) establish and maintain a data base of the names and
 44 addresses of the employers that have a violation under this
 45 chapter.

46 Sec. 26. This chapter does not require an employer to take any
 47 action that the employer believes in good faith would violate

1 federal law.

2 Sec. 27. After June 30, 2015, an employer shall verify the
3 employment eligibility of each employee of the employer through
4 E-Verify after hiring the employee.

5 Sec. 28. A person who files a complaint with the attorney
6 general or a prosecuting attorney under this chapter, knowing that
7 the complaint is false or frivolous, commits a Class B
8 misdemeanor.

9 Sec. 29. The suspension or revocation of a license under this
10 chapter does not relieve an employer from an obligation to
11 withhold, collect, or pay income tax on wages paid by the employer
12 to an employee.

13 Sec. 30. This chapter shall be enforced without regard to race or
14 national origin.

15 SECTION 5. IC 34-30-2-87.3 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2015]: **Sec. 87.3. IC 22-5-1.5-23 (Concerning**
18 **certain employers that employ unauthorized aliens).**

19 SECTION 6. IC 35-52-22-13.5 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2015]: **Sec. 13.5. IC 22-5-1.5-28 defines a**
22 **crime concerning filing a false or frivolous complaint of unlawful**
23 **labor practices."**

24 Renumber all SECTIONS consecutively.

(Reference is to SB 345 as printed January 30, 2015.)

Senator WALTZ